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July 11, 2023

BY ECF

The Honorable Paul G. Gardephe
United States District Judge
40 Foley Square
New York, New York 10007

Re: *Elting v. Lassiter, et al.*, 22 CV 8573 (PGG)

Your Honor:

I represent plaintiff Deon Elting in the above-referenced civil rights action. I write to request an extension of time to complete discovery, an enlargement of all other associated dates in the civil case management plan and scheduling order (ECF Doc. 35), and for an adjournment of the pre-trial conference currently scheduled for July 13, 2023 at 11:30 a.m.

Plaintiff makes this request primarily because the result of defendant Barometre's pending motion to dismiss will impact what steps plaintiff needs to take to obtain necessary discovery and depositions. Plaintiff anticipates taking, at a minimum, the depositions of Lassiter, Barometre and Jessica McNair, who is the Office of Special Investigations investigator who investigated the incident involving plaintiff. Plaintiff understands from counsel for Barometre that she objects to producing Barometre for a deposition unless the discovery stay is lifted, and should Barometre's motion be granted, then Barometre's appearance would need to be obtained via subpoena directed to DOCCS. Ms. McNair will also need to be subpoenaed. Further, there are certain records which DOCCS objected to producing to plaintiff, which, if Barometre remains a party, may be obtainable through her. If she is dismissed, plaintiff would need to engage in motion practice to compel the records. With respect to Lassiter, while there is no dispute as to producing Lassiter, due to counsel's schedules, plaintiff is requesting additional time to complete her deposition, which should the Court grant the relief requested herein, the parties have tentatively agreed to holding on July 31, 2023.

Given all the above, plaintiff respectfully requests an extension of discovery from July 19, 2023 to a date to be determined after a decision on defendant Barometre's motion to dismiss is issued by the Court, and a corresponding extension of all other remaining deadlines in the civil case management plan and scheduling order.

Plaintiff also requests that the pre-trial conference be adjourned to a date and time to be set by the Court after the motion to dismiss is resolved. Should the Court wish to keep the pre-trial conference date as currently scheduled, counsel for defendant Lassiter and the undersigned request, in the alternative, that the conference be converted to a telephonic conference, as we will both be out of state on July 13, 2023.

Counsel for Lassiter consents to the requests made herein.

Counsel for Barometre consents to converting the July 13, 2023 conference to a telephonic conference and takes no position as to the remaining requests made herein insofar as discovery is stayed as to Barometre.

This is the first request to extend the deadlines set forth in the civil case management plan and scheduling order and the first request to adjourn the pre-trial conference.

Thank you for your consideration.

Respectfully submitted,

s/ Lissa Green-Stark

Lissa Green-Stark

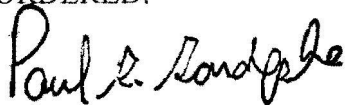
cc by ECF: All Counsel

MEMO ENDORSED:

The conference currently scheduled for July 13, 2023, will take place by telephone. The Court will discuss the discovery application with the parties at the conference.

The parties are directed to dial 888-363-4749 to participate, and to enter the access code 6212642. The press and public may obtain access to the telephone conference by dialing the same number and using the same access code. The parties should call in at the scheduled time and wait on the line for their case to be called. At that time, the Court will un-mute the parties' lines. One day before the conference, the parties must email Michael_Ruocco@nysd.uscourts.gov and GardepheNYSDChambers@nysd.uscourts.gov with the phone numbers that the parties will be using to dial into the conference so that the Court knows which numbers to un-mute. The email should include the case name and case number in the subject line.

SO ORDERED.



Paul G. Gardephe
United States District Judge

Dated: July 11, 2023